

REMARKS

Applicants respectfully request reconsideration of the present Application. Claims 18, 33, and 41 have been amended herein.

Rejections based on 35 U.S.C. § 112

Claims 18-50 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the submission of the learners response and justification does not reasonably provide enablement for the concurrent submission of the learners response and justification.

Claims 18-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 18, 33, and 41 have been amended to delete the term “concurrently” and to indicate that a learner’s answer or response and a learner’s justification for his or her answer or response are entered by the learner on a single electronic page (e.g., a Web page) and that both the answer and justification for the answer or response are submitted simultaneously by the learner by means of that single electronic page. Applicant respectfully submits that support is provided in the specification and drawings of the application, including FIG. 4 (and corresponding Paragraph 0044), which discloses, on a single electronic page 350, an answer or response area 370 and a justification area 380. FIG. 4 (and corresponding Paragraph 0044) also discloses a submit button 410 on the electronic page 350. Paragraph 0038 of the specification further provides that “[w]hen ready to proceed, the learner will submit his or her answer and justification, and the method will move to box 310.”

Rejections based on 35 U.S.C. § 102

Claims 18-21, 23-28, 31-35, 37-39 and 41-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Bajer et al. (U.S. Patent No. 6,736,642, hereinafter referenced as Bajer).

A claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently, in a single prior art reference. *Verdeggal v. Brothers v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); *see also* MPEP § 2131.

As indicated in the specification and figures of the present application, the Applicants’ invention is directed to a system for and method of teaching critical thinking skills that requires a learner to provide an answer or other response (e.g., a numerical rank or other assessment) to a question or other prompt relating to a particular fact pattern, artifact, or other informational content (e.g., a writing sample). More importantly, the system and method of the present invention requires the learner to provide his or her *justification* for the response. *See, e.g.*, Specification at pages 2, 5, 13.

The claims as currently amended require that a learner’s answer or response and a learner’s justification for his or her answer or response are entered by the learner on a single electronic page (e.g., a Web page) and that both the answer and justification for the answer or response are submitted simultaneously by the learner by means of that single electronic page. In this way, the Applicants’ present invention treats a learner’s response and justification for that response not as independently distinct learner interactions, but as a singular product of the learner. *See* FIG. 4; *see also* specification at para. 38; specification at para. 44; specification at para. 47 (“After the learner enters a rank and a justification and selects submit button 410 on

page 350, the invention saves the responses in a database...”). Independent claims 18, 33, and 41, as amended hereinabove, provide that a learner’s answer or response and a learner’s justification for his or her answer or response are entered by the learner on a single electronic page (e.g., a Web page) and that both the answer and justification for the answer or response are submitted simultaneously by the learner by means of that single electronic page.

Independent claims 18, 33, and 41, as amended hereinabove, also provide that a learner may request assistance in the form of a “coach” or teacher that provides information in advance of or in conjunction with a learner responding to a question or prompt and providing a justification; i.e., before the learner submits his or her response and justification via a single electronic page. As noted in the specification of the instant application, teaching or coaching “includes providing information in the form of text, audio and or video in advance of or in conjunction with a learner answering a question and/or providing a justification in order to assist the learner in making an informed decision and forming higher-level rationales.” See Specification at Para. 0036.

Applicants respectfully submit that independent claims 18, 33, and 41, as amended hereinabove, and all claims depending therefrom, are not anticipated by Bajer for several reasons.

First, Bajer does not disclose entry or submission of a *justification* for a particular answer or response. Applicants respectfully disagree that neither the “assumption” or “validation” taught by Bajer in FIGS. 8A or 8B constitutes the claimed “justification” for a particular answer or response. Bajer permits a user to enter “assumptions that form a basis for the responses.” See Bajer at 8A; see also Bayer at col. 15 at ll. 21-22. In contrast, the present invention requires that a user enter a justification (not one or more assumptions) for a particular answer or response. Unlike the “assumption” disclosed in Bayer, the justification required by

Applicants' invention does not "form a basis for the response." *See* Bajer at 8A; *see also* Bayer at col. 15 at ll. 21-22. Instead, the justification required by Applicants' invention provides a reason, rationale, or explanation for the response. *See, e.g.,* Para. 5 ("[C]ritical thinking allows a learner to provide some rationale or justification for his or her answer.").

Second, even assuming that the "assumption" or "validation" disclosed in Bajer constitutes a "justification"—and Applicants contend that they do not—such assumption or validation is not entered on the same electronic page as a response, nor is such assumption or validation submitted on the same single electronic page as a response. To the contrary, the "responses to the stimuli" disclosed in Bajer are entered and submitted before the validation or assumption are entered, and the "responses" disclosed in Bajer are not entered or submitted on the same electronic page as the validations or assumptions. For example, FIG. 8A of Bajer discloses that the user is prompted to enter responses to stimuli at step 882. The responses are then received at step 884. Only *after* the entry and receipt of the user's responses is the user permitted to enter assumptions or information on how to validate his/her assumptions. Similarly, Bajer discloses that a user is prompted to enter responses to stimuli, the "responses are subsequently received and recorded," and thereafter the user is "allowed to enter assumptions that form a basis of the responses" and is prompted to enter information on how to validate the assumptions. *See* Bajer at col. 15, ll. 10-31. Finally, FIG. 8B of Bajer does not disclose a learner's answer or response and a learner's justification for his or her answer or response entered by the learner on a single electronic page (e.g., a Web page), nor does FIG. 8B of Bajer disclose both an answer and justification for the answer or response submitted simultaneously by the learner by means of a single electronic page. Accordingly, Applicants respectfully suggest that Bajer does not anticipate the claims of the instant application as currently amended.

In addition, independent claims 18, 33, and 41, as amended hereinabove, also provide that a learner may request assistance in the form of a “coach” or teacher that provides information in advance of or in conjunction with a learner responding to a question or prompt and providing a justification; i.e., before the learner submits his or her response and justification via a single electronic page. As noted in the specification of the instant application, coaching “includes providing information in the form of text, audio and or video in advance of or in conjunction with a learner answering a question and/or providing a justification in order to assist the learner in making an informed decision and forming higher-level rationales.” See Specification at Para. 0036. Bajer, in contrast, does not disclose allowing a user to access a coach (also referred to as a “tutor constable” in Bajer) before the user submits a response. Bajer teaches that the coach or “tutor constable” may first be accessed by the user using the screen depicted at FIG. 6 of Bajer, which is the “first screen associated with the validation portion” of the Bajer invention. See Bajer FIG. 6; see also Bajer at col. 13, ll. 24-53. As discussed above, and as disclosed in Bajer FIG. 8A and column 15, the “validation” portion of Bajer (and access to the screen depicted at FIG. 6) occurs only *after* the user has entered and submitted his or her response. Accordingly, unlike the present invention, Bajer does not allow a learner to request assistance in the form of a “coach” that provides information *before or in conjunction with* the learner responding to a question or prompt. Accordingly, for this additional reason, Bajer does not anticipate the claims (as hereinabove amended) of the present application.

Rejections based on 35 U.S.C. § 103

Claims 22, 29-30, 26, 40, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Bajer et al. (U.S. Patent No. 6,736,642, hereinafter referenced as Bajer).

The claims as currently amended require that a learner's answer or response and a learner's justification for his or her answer or response are entered by the learner on a single electronic page (e.g., a Web page) and that both the answer and justification for the answer or response are submitted simultaneously by the learner by means of that single electronic page. In this way, the Applicants' present invention treats a learner's response and justification for that response not as independently distinct learner interactions, but as a singular product of the learner. *See* FIG. 4; *see also* specification at para. 38; specification at para. 44; specification at para. 47 ("After the learner enters a rank and a justification and selects submit button 410 on page 350, the invention saves the responses in a database..."). Independent claims 18, 33, and 41, as amended hereinabove, provide that a learner's answer or response and a learner's justification for his or her answer or response are entered by the learner on a single electronic page (e.g., a Web page) and that both the answer and justification for the answer or response are submitted simultaneously by the learner by means of that single electronic page. Applicants respectfully suggest that such claimed feature is not disclosed or rendered obvious under 35 U.S.C. 103 by Bajer.

Independent claims 18, 33, and 41, as amended hereinabove, also provide that a learner may request assistance in the form of a "coach" or teacher that provides information in advance of or in conjunction with a learner responding to a question or prompt and providing a justification; i.e., before the learner submits his or her response and justification via a single electronic page. Applicants respectfully suggest that such claimed feature is not disclosed or rendered obvious under 35 U.S.C. 103 by Bajer, which, as discussed above, discloses that a user has access to a "tutor constable" only *after* the user has entered and submitted a response. *See, e.g.,* Bajer FIGS. 7 and 8A. As such, the Bajer invention, unlike the present invention, does not

allow a learner to access a teacher or coach before or concurrently with the entry or submission of the learner's response to a question or other prompt.

CONCLUSION

For the foregoing reasons, Applicants respectfully submit that independent claims 18, 33, and 41, as amended hereinabove, and all claims depending therefrom, are not anticipated by or obvious in light of Bajer. Accordingly, Applicants respectfully suggest that claims 18-50 are now in condition for allowance and respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned at 816-474-6550 or btabor@shb.com (such communication via email is herein expressly granted) to resolve the same. The Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112, referencing attorney docket number UNVN.106165.

Respectfully submitted,

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